

AMENDED IN ASSEMBLY APRIL 21, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2658

Introduced by Assembly Member Bocanegra

February 21, 2014

An act to amend ~~Sections 42872.5 and 42885.5~~ of *Section 42703* of, and to add *Section 42872.6* to, the Public Resources Code, relating to recycling.

LEGISLATIVE COUNSEL'S DIGEST

AB 2658, as amended, Bocanegra. Recycling: waste tires: public works projects.

(1) Existing law requires the Department of Transportation to mandate the use of crumb rubber at a specified percentage, per metric ton, of the total amount of asphalt paving materials used for state highway construction or repair projects that use asphalt as a construction material. Existing law specifies a schedule that requires an increasing amount of asphalt paving materials containing crumb rubber to be used per metric ton of the total amount of asphalt paving materials. Existing law requires that, until January 1, 2015, not less than 50% of the asphalt pavement used to comply with those crumb rubber content requirements be rubberized asphalt concrete and authorizes the department, after that date, to use any material meeting the definition of asphalt containing crumb rubber to comply with those requirements.

This bill would extend to January 1, 2020, the period during which not less than 50% of the asphalt pavement is required to be rubberized asphalt concrete to comply with the crumb rubber content requirements, and would postpone until January 1, 2020, the authorization for the

department to use any material meeting the definition of asphalt containing crumb rubber to comply with those requirements.

~~The~~

(2) The existing California Tire Recycling Act requires the Department of Resources Recycling and Recovery to administer a tire recycling program, and imposes a California tire fee on a new tire purchased in the state. The revenue generated from the fee is deposited in the California Tire Recycling Management Fund for expenditure, upon appropriation by the Legislature, for the purposes of programs related to waste tires, including grants to local government agencies for public works projects that use waste tires. Existing law makes the grant program inoperative on June 30, 2015, and repeals the grant program on January 1, 2016. The act requires the Department of Resources Recycling and Recovery to adopt a 5-year plan, which is to be updated biennially, to establish goals and priorities for waste tire programs.

~~This bill would delete the repeal of the grant program and would make conforming changes with regard to the department's 5-year plan.~~

~~The bill would also require the department, when awarding grants under the grant program, to give priority to additionally authorize the department, when awarding grants pursuant to the tire recycling program, to award grants for public works projects that use waste tires to create parklets, greenways, or both, that use tire-derived products and would require the department, if it awards those grants, to give priority for funding to those projects in disadvantaged communities, as defined.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 42703 of the Public Resources Code is*
2 *amended to read:*

3 42703. (a) Except as provided in subdivision (d), the
4 Department of Transportation shall require the use of crumb rubber
5 in lieu of other materials at the following levels for state highway
6 construction or repair projects that use asphalt as a construction
7 material:

8 (1) On and after January 1, 2007, the Department of
9 Transportation shall use, on an annual average, not less than 6.62

1 pounds of CRM per metric ton of the total amount of asphalt paving
2 materials used.

3 (2) On and after January 1, 2010, the Department of
4 Transportation shall use, on an annual average, not less than 8.27
5 pounds of CRM per metric ton of the total amount of asphalt paving
6 materials used.

7 (3) On and after January 1, 2013, the Department of
8 Transportation shall use, on an annual average, not less than 11.58
9 pounds of CRM per metric ton of the total amount of asphalt paving
10 materials used.

11 (b) (1) The annual average use of crumb rubber required in
12 subdivision (a) shall be achieved on a statewide basis and shall
13 not require the use of asphalt containing crumb rubber in each
14 individual project or in a place where it is not feasible to use that
15 material.

16 (2) On and after January 1, 2007, and before January 1, ~~2015,~~
17 2020, not less than 50 percent of the asphalt pavement used to
18 comply with the requirements of subdivision (a) shall be rubberized
19 asphalt concrete.

20 (3) On and after January 1, ~~2015,~~ 2020, the Department of
21 Transportation may use any material meeting the definition of
22 asphalt containing crumb rubber, with respect to product type or
23 specification, to comply with the requirements of subdivision (a).

24 (c) (1) The Secretary Transportation shall, on or before January
25 1 of each year, prepare an analysis comparing the cost differential
26 between asphalt containing crumb rubber and conventional asphalt.
27 The analysis shall include the cost of the quantity of asphalt product
28 needed per lane mile paved and, at a minimum, shall include all
29 of the following:

30 (A) The lifespan and duration of the asphalt materials.

31 (B) The maintenance cost of the asphalt materials and other
32 potential cost savings to the department, including, but not limited
33 to, reduced soundwall construction costs resulting from noise
34 reduction qualities of rubberized asphalt concrete.

35 (C) The difference between each type or specification of asphalt
36 containing crumb rubber, considering the cost-effectiveness of
37 each type or specification separately in comparison to the
38 cost-effectiveness of conventional asphalt paving materials.

39 (2) Notwithstanding subdivision (a), if, after completing the
40 analysis required by paragraph (1), the secretary determines that

1 the cost of asphalt containing crumb rubber exceeds the cost of
2 conventional asphalt, the Department of Transportation shall
3 continue to meet the requirement specified in paragraph (1) of
4 subdivision (a), and shall not implement the requirement specified
5 in paragraph (2) of subdivision (a). If the secretary determines,
6 pursuant to an analysis prepared pursuant to paragraph (1), that
7 the cost of asphalt containing crumb rubber does not exceed the
8 cost of conventional asphalt, the Department of Transportation
9 shall implement paragraph (2) of subdivision (a) within one year
10 of that determination, but not before January 1, 2010.

11 (3) Notwithstanding subdivision (a), if the Department of
12 Transportation delays the implementation of paragraph (2) of
13 subdivision (a), the Department of Transportation shall not
14 implement the requirement of paragraph (3) of subdivision (a)
15 until three years after the date the department implements paragraph
16 (2) of subdivision (a).

17 (d) For the purposes of complying with the requirements of
18 subdivision (a), only crumb rubber manufactured in the United
19 States that is derived from waste tires taken from vehicles owned
20 and operated in the United States may be used.

21 (e) The Department of Transportation and the ~~board~~ *Department*
22 *of Resources Recycling and Recovery* shall develop procedures
23 for using crumb rubber and other derived tire products in other
24 projects.

25 (f) The Department of Transportation shall notify and confer
26 with the East Bay Municipal Utility District before using asphalt
27 containing crumb rubber on a state highway construction or repair
28 project that overlays district infrastructure.

29 (g) For purposes of this section the following definitions shall
30 apply:

31 (1) "Asphalt containing crumb rubber" means any asphalt
32 pavement construction, rehabilitation, or maintenance material
33 that contains reclaimed tire rubber and that is specified for use by
34 the Department of Transportation.

35 (2) "Crumb rubber" or "CRM" has the same meaning as defined
36 in Section 42801.7.

37 (3) "Rubberized asphalt concrete" or "RAC" means a paving
38 material that uses an asphalt rubber binder containing an amount
39 of reclaimed tire rubber that is 15 percent or more by weight of
40 the total blend, and that meets other specifications for both the

1 physical properties of asphalt rubber and the application of asphalt
2 rubber, as defined in the American Society for Testing and
3 Materials (ASTM) Standard Specification for Asphalt-Rubber
4 Binder.

5 *SEC. 2. Section 42872.6 is added to the Public Resources Code,*
6 *to read:*

7 *42872.6. (a) (1) When awarding grants pursuant to Section*
8 *42872 to cities, counties, and other local government agencies for*
9 *public works projects that use tire-derived products, the department*
10 *may, in addition to any other authorized use of those funds, award*
11 *grants for public works projects that use tire-derived products,*
12 *including recycled tire lumber, to create parklets, greenways, or*
13 *both.*

14 *(2) If the department awards grants pursuant to this section,*
15 *the department shall give priority to public works projects that*
16 *use tire-derived products to create parklets, greenways, or both,*
17 *in disadvantaged communities.*

18 *(b) For the purposes of this section, the following terms have*
19 *the following meanings:*

20 *(1) "Disadvantaged community" means a community, as*
21 *determined by the department, with an annual median household*
22 *income that is less than 80 percent of the statewide median*
23 *household income.*

24 *(2) "Greenway" means a travel corridor for pedestrians,*
25 *bicycles, nonmotorized vehicle transportation, recreation, or a*
26 *combination thereof, located along natural landscape features,*
27 *such as an urban watercourse.*

28 *(3) "Parklet" means a small urban park intended for people*
29 *and that provides amenities, including, but not limited to, seating,*
30 *tables, bicycle racks, and landscaping.*

31 ~~SECTION 1. Section 42872.5 of the Public Resources Code~~
32 ~~is amended to read:~~

33 ~~42872.5. (a) (1) In accordance with the conditions specified~~
34 ~~in paragraph (2), the grants awarded pursuant to Section 42872~~
35 ~~may be made to cities, counties, and other local government~~
36 ~~agencies for the funding of public works projects that use waste~~
37 ~~tires, including, but not limited to, the use of rubberized asphalt~~
38 ~~concrete and tire-derived aggregate.~~

~~(2) The department shall give priority, when awarding grants pursuant to this section, to public works projects that use waste tires to create parklets in disadvantaged communities.~~

~~(b) The grants described in subdivision (a) shall be funded by an appropriation in the annual Budget Act from the California Tire Recycling Management Fund established pursuant to Section 42885.~~

~~(c) In order to provide outreach to local agencies regarding the use of rubberized asphalt concrete in public works projects, both of the following shall occur:~~

~~(1) The department shall create, annually update, and post on its Internet Web site a database of public works projects that use waste tires that were completed by local agencies receiving grants for purposes of this section.~~

~~(2) The department shall provide technical support to local agencies on the design and application for using waste tires in public works projects.~~

~~(d) For purposes of this section, the following terms have the following meanings:~~

~~(1) "Disadvantaged community" means a community, as determined by the department, with an annual median household income that is less than 80 percent of the statewide median household income.~~

~~(2) "Parklet" means a small urban park intended for people and that provides amenities, including, but not limited to, seating, tables, bike racks, and landscaping.~~

~~SEC. 2. Section 42885.5 of the Public Resources Code is amended to read:~~

~~42885.5. (a) The department shall adopt a five-year plan, which shall be updated every two years, to establish goals and priorities for the waste tire program and each program element.~~

~~(b) On or before July 1, 2001, and every two years thereafter, the department shall submit the adopted five-year plan to the appropriate policy and fiscal committees of the Legislature. The department shall include in the plan, programmatic and fiscal issues including, but not limited to, the hierarchy used by the department to maximize productive uses of waste and used tires, and the performance objectives and measurement criteria used by the department to evaluate the success of its waste and used tire recycling program. Additionally, the plan shall describe each~~

1 program element's effectiveness, based upon performance measures
2 developed by the department, including, but not limited to, the
3 following:

4 (1) Enforcement and regulations relating to the storage of waste
5 and used tires:

6 (2) Cleanup, abatement, or other remedial action related to waste
7 tire stockpiles throughout the state:

8 (3) Research directed at promoting and developing alternatives
9 to the landfill disposal of waste tires:

10 (4) Market development and new technology activities for used
11 tires and waste tires:

12 (5) The waste and used tire hauler program, the registration of,
13 and reporting by, tire brokers, and the manifest system:

14 (6) A description of the grants, loans, contracts, and other
15 expenditures proposed to be made by the department under the
16 tire recycling program:

17 (7) The grant program authorized under Section 42872.5 to
18 encourage the use of waste tires, including, but not limited to,
19 rubberized asphalt concrete technology, in public works projects:

20 (8) Border region activities, conducted in coordination with the
21 California Environmental Protection Agency, including, but not
22 limited to, all of the following:

23 (A) Training programs to assist Mexican waste and used tire
24 haulers to meet the requirements for hauling those tires in
25 California:

26 (B) Environmental education training:

27 (C) Development of a waste tire abatement plan, with the
28 appropriate government entities of California and Mexico:

29 (D) Tracking both the legal and illegal waste and used tire flow
30 across the border and recommended revisions to the waste tire
31 policies of California and Mexico:

32 (E) Coordination with businesses operating in the border region
33 and with Mexico, with regard to applying the same environmental
34 and control requirements throughout the border region:

35 (F) Development of projects in Mexico in the California-Mexico
36 border region, as defined by the La Paz Agreement, that include,
37 but are not limited to, education, infrastructure, mitigation, cleanup,
38 prevention, reuse, and recycling projects, that address the
39 movement of used tires from California to Mexico that are
40 eventually disposed of in California:

- 1 ~~(e) The department shall base the budget for the California Tire~~
- 2 ~~Recycling Act and program funding on the plan.~~
- 3 ~~(d) The plan may not propose financial or other support that~~
- 4 ~~promotes, or provides for research for the incineration of tires.~~